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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,780	02/09/2004	Gregory D. Aviza	00216-674001 / Case 8144	8854

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THE PROCTER & GAMBLE COMPANY
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EXAMINER	
PETERSON, KENNETH E	

ART UNIT	PAPER NUMBER
3724	

MAIL DATE	DELIVERY MODE
08/01/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/774,780	AVIZA, GREGORY D.	
	Examiner	Art Unit	
	Kenneth Peterson	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 June 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *22,28,38,39,43 and 44* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *22,28,38,39,43 and 44* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 22 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Francis (4,868,983), who shows a method of making a razor with all of the recited steps including;

Providing a housing (figure 7) having a guard (21),

Providing elongate metal blades (14),

Providing 1st and 2nd end blocks (e.g. figure 4B),

Securing the blades in the end blocks (figure 5) movably in slots (a slot is shown between 8 and 9 in figure 4B),

Inserting the subassembly into the housing (figure 7).

Francis's end blocks are made of brass instead of plastic. Examiner takes Official Notice that that the razor industry has long ago learned to make such parts out of plastic. Applicant has challenged this point, so Examiner provides the Apprille, Jr. et al. reference (6,009,624), which shows how integral springy plastic (36) can be used to retain the blades. Further references to this effect can be provided if further challenged, as indeed there has been a large scale movement towards plastics in the razor industry since the issuance of the Francis '983 patent. In addition, the courts have ruled that it is obvious to select known materials based upon their known effectiveness. In this case, plastics that can be springy are known, and it is also known that plastics can be cheaper

than brass. It would have been obvious to one of ordinary skill to have modified Francis by making his end blocks out of plastic, as argued above, since it would be cheaper.

3. Claims 22,28,38,39,43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Francis (4,868,983), as modified above, and further in view of Santhagens Van Eibergen et al. (6,671,961) and/or Francis (4,516,321) an/or Andrews (6,145,201) and/or Welsh (3,660,893).

In regards to at least claims 38,43 and 44, Francis '893, as modified above, has parts of the knife sticking *slightly* past the end of the blocks, as seen in figure 6 (18 projects past 11). However, Santhagens Van Eibergen (figure 3), Francis '321 (figure 15), Andrews (figure 10) and Welsh (cover figure) show that it is well known for blade subassemblies to not let the blades project past the end blocks. It would have been obvious to one of ordinary skill in the art to have further modified Francis '983 by having the ends of the blades not project past the end blocks as taught by the above references, since this seems to be the standard in the art, and it also prevents the knife ends from obstructing insertion.

In regards to at least claims 39 and 44, Francis, as modified, lacks a lubricating strip, but this is ubiquitous in the art as seen in Santhagens Van Eibergen (23, lines 18-21, column 6). It would have been obvious to one of ordinary skill in the art to have provided a lubricating strip for Francis '983, as taught by Santhagans Van Eibergen, in order to provide a more pleasant shaving experience.

4. Applicant's arguments have been fully considered but they are not persuasive.

Applicant argues that each of Francis '983 blocks have just one slot, not two. Examiner disagrees. It is very reasonable to say that there is one slot on the left of lug 7, and another slot on the right of lug 7. If Applicant would like to distinguish over this, he could add a recitation that the slots are non-contiguous.

Applicant argues that it would not have been obvious to have replaced Francis's metal blocks with plastic blocks, especially since Francis praises the use of metal. Examiner disagrees. While using metal certainly has advantages, this does not change the fact that plastic also has advantages, most importantly in price of materials and cost of manufacture. Razor companies have to sell millions to razors to be competitive, and at such large numbers, the effect of reducing the cost of even one part can have a large impact on the companies overall profitability. Furthermore, the Apprille reference teaches using plastic in this situation, as set forth above.

Applicant argues that there is no motivation to modify Francis '983 by making the knife not stick out past the ends of the blocks. However, as codified in the recent KSR decision, there need not be an explicit motivation set forth in the prior art. In this case, one of ordinary skill reviewing the recited art would recognize that it could be manufactured either way, with or without the knives sticking out past the block. Furthermore, once the modification is made to change the blocks from metal to plastic, the block will have to be thicker and more suited to cover the blade ends, as in Santhagens Van Eibergen (figure 3), Francis '321 (figure 15) and Andrews (figure 10).

Francis '321 teaches the equivalency of having the blades stick out (figure 8) or not stick out (figure 15).

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Peterson whose telephone number is (571)272-4512. The examiner can normally be reached on Monday-Thursday, 7:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kenneth Peterson/
Primary Examiner, Art Unit 3724